IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 9TH NOVEMBER 2006 / 18TH KARTHIKA 1928

MFA.No. 329 of 2002()

OPMV.2668/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
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APPELLANT/PETITIONER:

M.I. SABU, AGED 33 YEARS, SON OF
SRI. ITTAN PILLA, MADAKKAL HOUSE,
NJARALLOOR, KIZHAKKAMBALAM P.O.

BY ADV. SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SRI.RADHIKA RAJASEKHARAN P.

RESPONDENTS/RESPONDENTS:
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1. A.V. JACOB, ALATTU OLITHADATHIL HOUSE,
PARAKKODEKARA, VEMPILLY P.O.

2. BIJU, S/O. GEORGE, THURUTHUMMEL HOUSE,
NEAR ST.GEORGE CHAPPEL, ERUVELI,
KUNNATHUNADU VILLAGE.

3. THE ORIENTAL INSURANCE CO.LTD.,
M.G. ROAD, COCHIN-11.

BY ADV. SRI.MATHEWS JACOB

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 09/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & M.N. KRISHNAN, JJ.

M.F.A. NO. 329 OF 2002

Dated this the 9th day of November, 2006

JUDGMENT

KRISHNAN,J.

This is an appeal preferred against the award of the Motor Accidents claimants Tribunal in O.P. (MV) No. 2668 of 1996, Ernakulam.

2. The appellant sustained serious injury in a road accident and the Tribunal awarded a compensation of Rs.95,000/-. It is against the decision that the appeal is filed.

3. Heard both sides.

4. A perusal of the records would reveal that the claimant sustained for fracture, dislocation of sacrum, S2/S3 lateral fracture and multiple fracture of sacrum and abnormal sigmal intensity suggestive. He was treated by the Department of Neuro Sciences, M.M.M. Hospital, Kolencherry on 5.7.1997 and discharged on 10.7.1997. There was inflammation and trauma due to the injury and there was a mass furnaces as well. The MRI report show that there was deformity for him and that

S2 segments appeared to be partly destroyed. Two disability certificates issued, one by the medical board and other by a doctor were marked as Exts. A7 & A8. The medical board assessed the disability at 15%. It is noted that he is suffering from mild parapasis. The doctor who issued Ext. A7 certificate was examined and he proved that there is autonomic paralysis of bladder and the rectum. So the nature of injury sustained, supported with medical documents and after examination of competent doctors of medical board as well as the person who treated also certified that he was having 15% permanent disability and the Tribunal, without assigning any reason even though the doctor was examined and the medical board certified the disability, rejected it and did not award any compensation at all. On the evidence available, both documentary as well as the expert evidence, it is seen that the claimant is having difficulties permanently and the approach by the Tribunal is incorrect. Therefore, we accept the disability at 15%. When it is so and the income is taken as Rs.2,000/- for 15% disability, the annual loss of earning will be Rs.3600/- and by applying the multiplier of 17 it will come Rs.61,200/-. The Tribunal awarded a sum of

Rs.20,000/- for the difficulties, for loss of amenities and therefore we deduct Rs.10,000/- from the same and find that the claimant will be intended an additional compensation of Rs.51,200/-.

On other heads, no interference is required. In the result, MFA is partly allowed and the claimant is awarded an additional compensation of Rs.51,200/- with 7% interest on the said sum from the date of petition till realisation and the third respondent insurance company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

J.B. KOSHY, JUDGE.

M.N. KRISHNAN, JUDGE.

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